

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 90 OF 2007

Dhondiram @ Balwant Nivrutti
Sankpal (deceased) through LRs:
1. Smt.Shakuntala Dhondiram @
Balwant Sankpal & Ors. .. Petitioners.

V/s.

Smt.Susheela Narayan Ayarekar .. Respondent.

Mr.Amit Borkar for the Petitioners.

CORAM : S. A. BOBDE, J.

DATED : 20th JULY, 2007.

P.C. :-

. This second appeal is against concurrent findings of the two courts below. The lower appellate court has upheld the dismissal of the plaintiffs suit. The court has found that the plaintiffs and the respondents have common ancestor by name Nivrutti, who died on 30th December, 1959. Nivrutti had two sons Dhondiram and Gajanan and Dhondiram died on 10.09.1990 leaving behind his legal heirs who are the plaintiffs. Gajanan had predeceased Nivrutti, leaving behind his wife Rukmini, who had been given the suit property for maintenance during her life time. The court has found that upon the death of Rukmini the property has devolved

of her son i.e. defendant daughter. Having regard to these circumstances, the court has declined to give declaration that the plaintiff is the exclusive owner of the property.

2. No substantial question of law arises in the second appeal. The judgements of the courts below are based on the evidence which has been duly appreciated. Second appeal is, therefore, dismissed.

(S.A.BOBDE, J.)

.....